

**BOARD OF ZONING APPEALS
CITY OF WILLMAR, MN
TUESDAY, JUNE 26, 2018**

MINUTES

1. The Willmar Board of Zoning Appeals met on Tuesday, June 26, 2018 at 5:01 p.m. at the City Office Building.

**** Members Present:** Andrew Engan, Jim Rudnick, Tom Butterfield, and Christopher Frank.

**** Members Absent:** Jay Lawton.

**** Others Present:** Sarah Anderson – Planner, Susan B. – Willmar, MN, Susan G. – Willmar, MN, and Blake Graves – Dominos.

2. MINUTES: Minutes of the April 9th, 2018 meeting were approved as presented.

3. LEGACY GROUP AVENUE PARKING SETBACK VARIANCE-FILE NO. 18-02:
The public hearing opened at 5:02 p.m. Andrew Engan reminded the Board and Public of the Variance findings of fact that need to be made in order to approve a variance. Staff presented the request, on behalf of Marcus Construction, Willmar, MN (general contractor for Legacy Group Development, LLC) for a side yard right-of-way parking setback variance of 5' on property described as follows: Lot 1 excluding the east 12'; Lot 2 excluding the east 11'; Lot 3 excluding the east 10'; Lot 4 excluding the east 9'; Lot 5 excluding the east 8'; Lot 6 excluding the east 7'; Lot 7 excluding the east 7', Block 67, First Addition to the Town of Willmar (602 1st St S). The Zoning Ordinance requires a 15' setback from edge of right-of-way. The setback along Monongalia Avenue is being requested for increased onsite parking and vehicle traffic flow.

Blake Graves of Marcus Construction informed the Board that Council Member Fernando Alvarado was concerned about parking on the site when the TIF agreement was presented at City Council.

Susan Berge of Willmar, MN raised concern about the live fence, runoff, and sewer issues on behalf of her mother. Susan G. also voiced concern regarding the live fence and future maintenance/encroachment onto their properties.

Mr. Graves informed everyone that the southwestern parcels recently acquired and rezoned are intended for future development, but will be grass at this time.

No one else appeared to speak for or against the request and the Public Hearing closed at 5:19 p.m.

The Board discussed stormwater runoff and impervious surface for this site at great length, as well as parking. Current stormwater retention and runoff plans were discussed, as well as engineering concerns of increased runoff due to more impervious with this revised plan. Staff will have oversight of the stormwater for this property, and the Stormwater Ordinance would need to be addressed if this change in impervious surface was approved.

Mr. Graves reiterated the desire of the company to increase parking at this site to accommodate future increases in traffic flow and mitigate parking issues as much as possible.

Upon request by the Board, Staff reminded everyone of the purpose of a variance and the requirements for approval.

The Board discussed continued concern about detriment to the neighborhood and the public. Mr. Graves reiterated the company's desire to be ahead of the game to best accommodate customers and neighbors.

The Board of Zoning Appeals then discussed the "unique circumstances" finding at length. Mr. Graves mentioned the TIF requirements for phase 2; Staff reminded the board that the variance is for phase 1.

Ms. Berge mentioned the possibility of another lot being sold to Legacy Commons on the west ½ of the block, which would increase the property Marcus Construction and Legacy Commons are creating a site plan for, perhaps alleviating the need for a variance.

The Board inquired about past variances of similar nature. Other than one case along Grace Ave SW, where a variance was approved to extend parking due to the existing structure and a change of use requiring more parking, there has been no precedent for setback variances along an avenue for a property along 1st St.

Mr. Butterfield made a motion, seconded by Mr. Rudnick, to deny the request.

The reasoning the Board gave for denying the request was that the unique circumstance was created by the property owner, and economic reasons alone do not constitute a practical difficulty. They found the reduced setback and increased impervious surface may be detrimental to the public welfare.

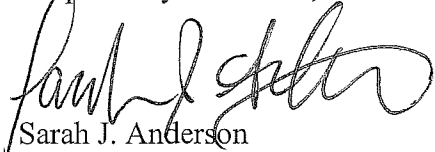
The motion was believed to have failed with Mr. Rudnick and Mr. Butterfield voting aye, Mr. Frank voting nay, and Mr. Engan abstaining.

Mr. Butterfield made a motion to table the item until more information can be supplied to the Board, seconded by Mr. Rudnick.

The motion carried.

3. There being no further business to come before the Board, the meeting adjourned at 6:17 p.m.

Respectfully submitted,



Sarah J. Anderson
Planner

BOARD OF ZONING APPEALS - JUNE 26, 2018

STAFF COMMENTS

1. LEGACY GROUP AVENUE PARKING SETBACK VARIANCE - FILE NO. 18-02:

- The applicant is Marcus Construction, Willmar, MN.
- The applicant requests to allow a side yard right-of-way parking setback of 5' on property described as follows: Lot 1 excluding the east 12'; Lot 2 excluding the east 11'; Lot 3 excluding the east 10'; Lot 4 excluding the east 9'; Lot 5 excluding the east 8'; Lot 6 excluding the east 7'; Lot 7 excluding the east 7', Block 67, First Addition to the Town of Willmar (602 1st St S).
- The property is zoned GB (General Business).
- The applicant is the general contractor for Legacy Group Development, LLC, Willmar, MN (owners).
- The variance is being requested along Monongalia Avenue to increase onsite parking.
- A condition of the Planning Commission's approval of the initial Plan Review was to meet setbacks for parking or obtain a variance. However, Planning Commission approved the number of parking spaces proposed.
- Legacy Development Group, LLC has acquired and rezoned the 2 southern-most parcels on the west ½ of the block for future development.
- On April 9, 2018, Board of Zoning Appeals approved a right-of-way setback variance along 1st St for a 5'-10' parking setback due to right-of-way acquisition.

Engineering Comments: I have reviewed the revised civil plans for Legacy Commons dated May 25, 2018 prepared by Design Tree Engineering and Land Surveying, and have the following comments.

- A variance for the non-conforming parking lot setbacks from the property lines will be required.
- A NPDES construction storm water permit will be required for this project.
- Post development runoff should be equal to or less than pre development runoff. The revised sheet No. C3.0 indicated considerably more impervious surface than the original submittal yet the property information chart and the stormwater calculations are the same. Update the property information chart and stormwater calculation to address the plan changes.
- Prior to any soil disturbing operations, perimeter silt fence shall be installed to prevent any sediment from leaving the site.
- All downstream storm sewer inlets or aprons shall have inlet protection in place prior to any soil disturbing operations.
- The receiving water for this site is Lake Wakanda which is location 4.8 miles to the southeast.
- All offsite vehicle tracking sediment shall be swept at the end of each work day.

RECOMMENDATION: Review variance standards in Section 9.D.3.a.1-4 to see if there are practicable difficulties, reasonableness, uniqueness, and essential character.

**BOARD OF ZONING APPEALS
CITY OF WILLMAR, MN
TUESDAY, JULY 9, 2018**

MINUTES

1. The Willmar Board of Zoning Appeals met on Monday, July 9, 2018 at 5:01 p.m. at the City Office Building.

**** Members Present:** Andrew Engan, Jim Rudnick, Jay Lawton, Tom Butterfield, and Christopher Frank.

**** Members Absent:**

**** Others Present:** Sarah Anderson – Planner, Susan Berge – Willmar, MN, Jim Bach – Marcus Construction, Ross Marcus – Marcus Construction.

2. LEGACY GROUP AVENUE PARKING SETBACK VARIANCE-FILE NO. 18-02:
Mr. Lawton made a motion, seconded by Mr. Rudnick, to take the item from the table.

Staff reviewed the request, on behalf of Marcus Construction, Willmar, MN (general contractor for Legacy Group Development, LLC) for a side yard right-of-way parking setback variance of 5' on property described as follows: Lot 1 excluding the east 12'; Lot 2 excluding the east 11'; Lot 3 excluding the east 10'; Lot 4 excluding the east 9'; Lot 5 excluding the east 8'; Lot 6 excluding the east 7'; Lot 7 excluding the east 7', Block 67, First Addition to the Town of Willmar (602 1st St S). The Zoning Ordinance requires a 15' setback from edge of right-of-way. The setback along Monongalia Avenue is being requested for increased onsite parking and vehicle traffic flow.

Upon review with the City Attorney, the motion made at last meeting failed 2-2, as the professional reason for abstaining did not constitute a conflict of interest, therefore it was considered a no vote.

A letter submitted by Igor Lenzner, Attorney for Legacy Commons, LLC, was read by staff.

Andy Engan reminded the board and those in attendance of the findings of fact for a variance.

Blake Graves of Marcus Construction informed the Board that Council Member

The Board asked Marcus Construction about the separate phases of the project and the timing of submittals. Jim Bach explained the parcels on the southwest corner of the block were acquired after the development planning had begun.

The Board then asked Marcus Construction about the reasoning to add more parking spaces to the parking lot. As Mr. Bach stated, parking is an issue in the city and wanted to best accommodate parking onsite, limiting the need for offsite parking.

The Board discussed the need for setbacks. Staff reminded everyone that setbacks serve as a buffer, safety precaution, and a way to guarantee some pervious surface in a development. The Board brought up the need to discuss setbacks along 1st Street with Planning Commission if variances continually be approved for shorter setbacks than required.

Mr. Frank made a motion, seconded by Mr. Rudnick, to approve the request.

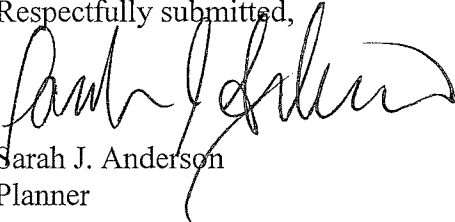
The Board inquired if any other uses have been finalized for the development. According to Mr. Bach, no tenants other than Dominos are official at this time.

The motion carried with Mr. Lawton, Mr. Frank, Mr. Rudnick, and Mr. Engan voting aye, and Mr. Butterfield abstaining.

The reasoning the Board gave for approving the request was that it was a reasonable request not affecting other property. They found that the limited development space was a unique circumstance not created by the landowners. The variance will not negatively alter the essential character of the area. The variance is consistent with the comprehensive plan as it will be a commercial use in a commercial corridor. The Board thought it was in harmony with the Zoning Ordinance in that it was allowing safe traffic flow and adequate parking spaces for the development onsite.

3. MISCELLANY: Staff will forward the request to Planning Commission to review setback requirements along 1st Street, especially the portions near the Central Business District.
4. There being no further business to come before the Board, the meeting adjourned at 5:35 p.m.

Respectfully submitted,



Sarah J. Anderson
Planner

NOTICE OF HEARING ON AN APPEAL FOR A VARIANCE

Notice is hereby given that the City of Willmar Board of Zoning Appeals will meet on Tuesday, August 7, 2018, at 5:01 p.m. at the City of Willmar Office Building, 333 SW 6th Street, Conference Room 1 (main floor), Willmar, MN, to conduct a public hearing to hear reasons for and against a variance requested by Marcus Construction on behalf of 1st St Station, Willmar, MN, to allow a parking right-of-way setback along 1st St and northern lot line, on property described as follows: Part of the Southwest ¼ of Southwest ¼, Section 14, Township 119, Range 35 (1221 1st St S). Being requested is a variance from SECTION 4.A.5.b. & e. of the City of Willmar Zoning Ordinance which establishes no off-street parking areas within 15' of right-of-way and 10' of commercial side or rear lot lines.

All property owners or residents living in the vicinity of the above-described property are hereby notified of the public hearing that they may appear in person or be represented by counsel to be heard on this matter. The Board of Zoning Appeals meeting agenda and packet can be found on the Calendar on the home page of the City's website (www.willmarmn.gov).

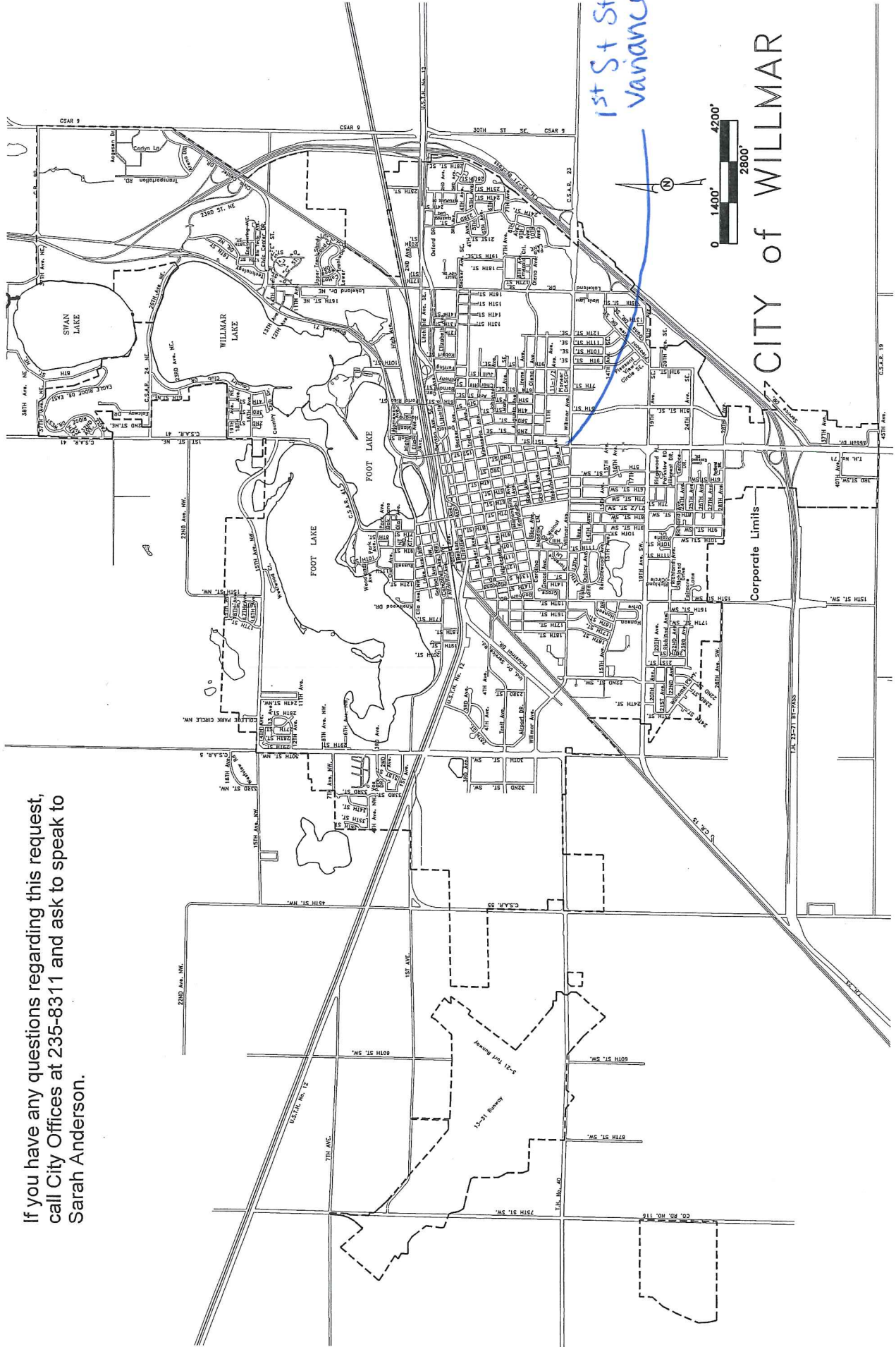
July 27, 2018
Date

Sarah J. Anderson
Planner

Si Usted no lee inglés o si este aviso no contiene una explicación suficiente, por favor comuníquese con Abby al 235-0850 ext. 1100, de Heartland Community Action Agency.

Haddii Aadan Akhriyi Karin Ama Aadan Fahmeeynin Ogeeysiiskan, Fadlan Soo Wac: Sahra Gure, West Central Interpreting Services, LLC (320)235-0165 ama (320)441-8555.

If you have any questions regarding this request, call City Offices at 235-8311 and ask to speak to Sarah Anderson.





FILE COPY

This is an ALTA survey of:

part of:

SW 1/4 of the SW 1/4

Located in:

Section 14, T119N-R35W, Willmar Township,
Kandiyohi County, Minnesota

FILE COPY



This drawing prepared by:

Bonnema Surveys Inc.

Professional Land Surveying

1809 22nd St SW - Suite 104

Willmar, MN 56201

Office (320) 231-2844 Fax (320) 231-2827

Requested by: **Fred Anderson**
1515 10th St SW
Willmar, MN 56201

**LEGEND**

- Found Iron Monument from former survey
- Bonnema Surveys Placed Capped Iron Monument
- ⊙ Kandiyohi County Capped Aluminum Rod
- Busted Gas Line
- Busted Phone Line
- Overhead Power Lines
- Busted Electric Line
- Water Line
- Sanitary Sewer Line
- Fence Line
- Curb & Gutter
- Drive Over Curb & Gutter
- ⊙ Sanitary Manhole
- ⊙ Stop Light Post
- ▲ Gas Meter
- ⊕ Water Shut Off Valve
- ⊙ Power Pole
- ⊙ Electric Box
- ⊙ Telephone Pedestal
- ⊙ Air Conditioner
- ⊙ Fire Hydrant
- ⊙ Sign
- ⊙ Light Pole
- Guard Post
- ▨ Bituminous
- ▨ Concrete
- ▨ Gravel/Rock

The Gopher State One Call Utility location system was notified for this survey (Ticket # 140490099). The following utility companies were notified.

- Charter Communications	(800) 778-9140
- Center Point Energy	(608) 223-2014
- Willmar Utilities	(320) 235-4422
- Willmar Electric & Fiber	(800) 778-9140
- Windstream Communications	(763) 682-3514
- Zayo Bandwidth	(888) 267-1063
- Centurylink	(800) 283-4237

Some of the utility companies did not respond to the locate request. There may be other utilities located on the premises which were not marked at the time the field data was gathered. Before any excavating is done in this area, the utilities in this area should be re-notified.

Surveyors Notice:

At the time the field data was gathered on this site there was a significant amount of snow which hampered the ability to locate culverts and other ground structures of the site.

Storm & Sanitary Sewer Notice:

Due to a large amount of snow and ice, sanitary sewer and storm sewer data was taken from the City of Willmar and has not been field verified.

Flood Data:

This property is in Zone X of the Flood Insurance Rate Map, Community Panel No. 270703 0001A which has an effective date of July 29, 1977.

Zoning Information: (per the City of Willmar)

GB - General Business

- Minimum Lot Width of 100 feet
- Front Yard Setback of 25 feet
- Rear Yard Setback of 10 feet
- Side Interior Setback of 10 feet
- Side Street Setback of 25 feet
- Building Height Restriction of 45 feet

For Additional Zoning Information contact the City of Willmar Planning & Development Services

Director
Bruce Peterson
333 6th St SW
Willmar, MN 56201
(320) 235-8311

Elevation Datum:

The Elevation Datum used for this survey is the National American Vertical Datum of 1988 (NAVD 88)
SMEAR MnDOT = 1149.84 (NAVD 88)

Address of Property:

Tax Parcel: 95-914-1490
1221 1st St South
Willmar, MN 56201

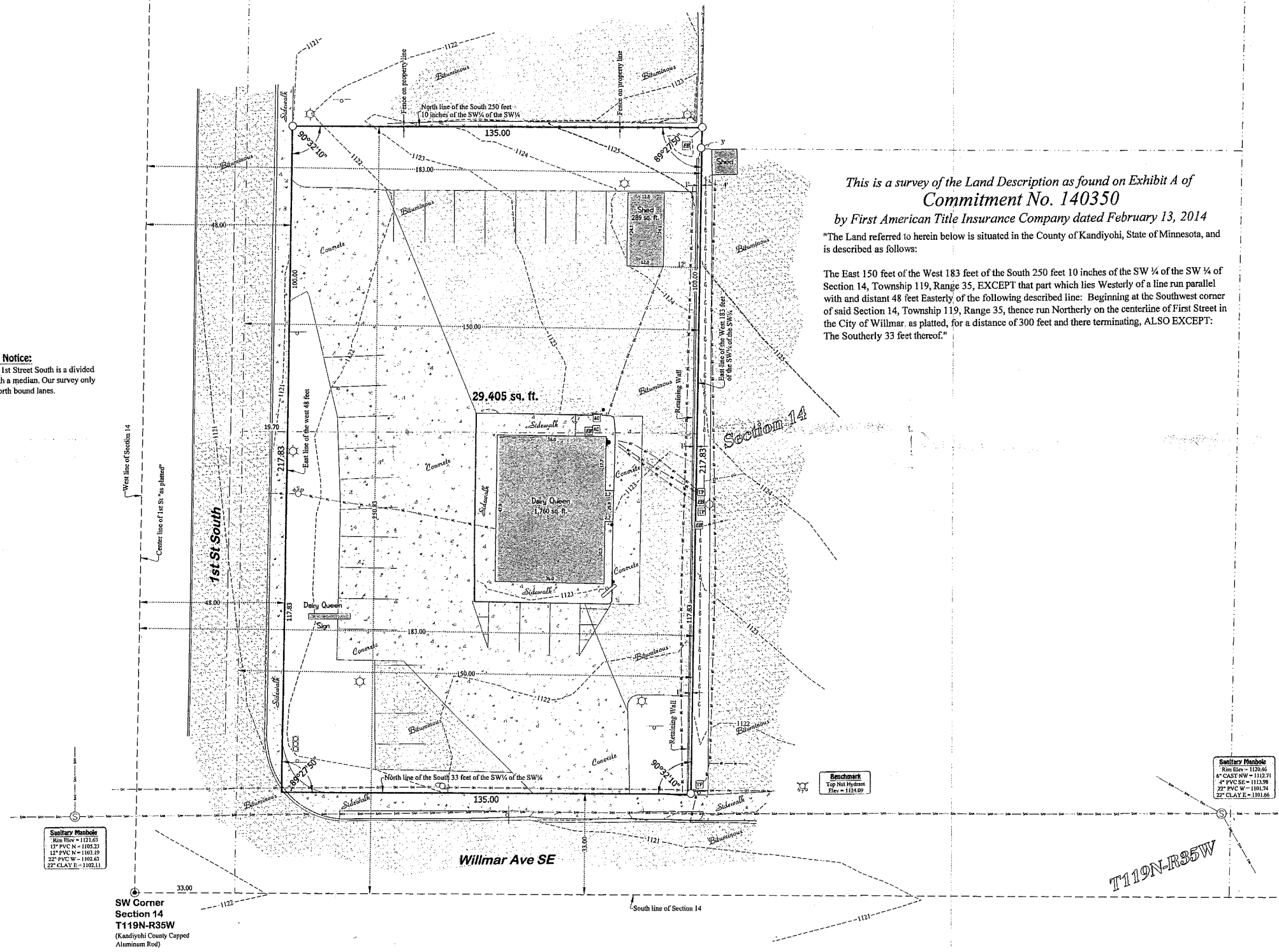
This is a survey of the Land Description as found on Exhibit A of
Commitment No. 140350

by First American Title Insurance Company dated February 13, 2014

"The Land referred to herein below is situated in the County of Kandiyohi, State of Minnesota, and is described as follows:

The East 150 feet of the West 183 feet of the South 250 feet 10 inches of the SW 1/4 of the SW 1/4 of Section 14, Township 119, Range 35, EXCEPT that part which lies Westerly of a line run parallel with and distant 48 feet Easterly of the following described line: Beginning at the Southwest corner of said Section 14, Township 119, Range 35, thence run Northerly on the centerline of First Street in the City of Willmar, as platted, for a distance of 300 feet and there terminating, ALSO EXCEPT: The Southerly 33 feet thereof."

Surveyors Notice:
This area of 1st Street South is a divided highway with a median. Our survey only shows the north bound lanes.



To: Fred H. Anderson, Rosella J. Anderson, Quality Title, LLC, a Minnesota limited liability company, First American Title Insurance Company, HIS Property Group, LLC, a Minnesota limited liability company, and HIS Land Company, LLC, a Minnesota limited liability company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 5, 6a, 6b, 7a, 7b1, 8, 11a, 11b, 16, 17, 20 of Table A thereof. The field work was completed on February 19, 2014.

Joshua M. Stam

Date **March 27, 2014** License No. 45169

Survey Requested By: Fred Anderson
© BONNEMA SURVEYS 2014

14-119-35

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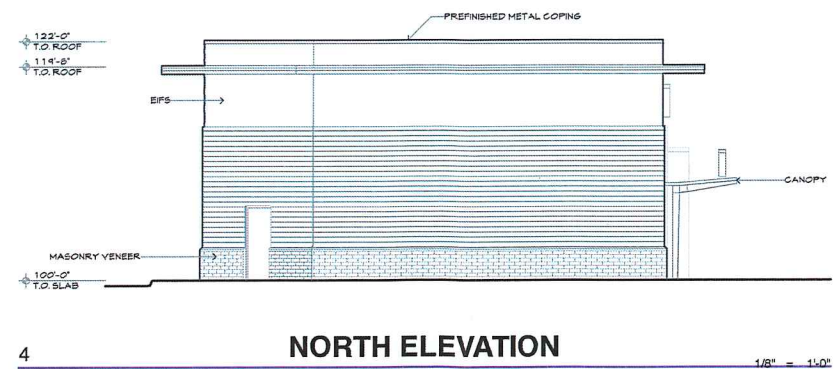
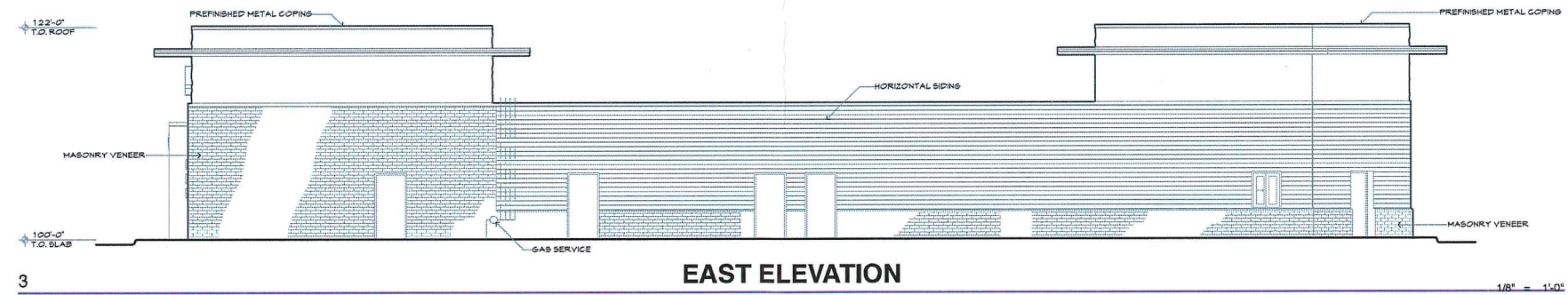
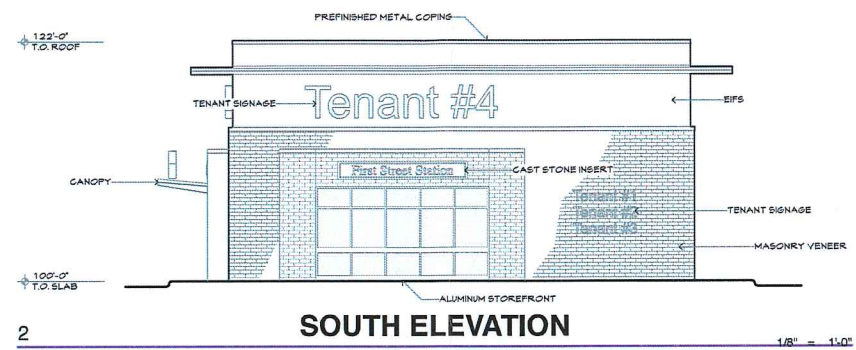
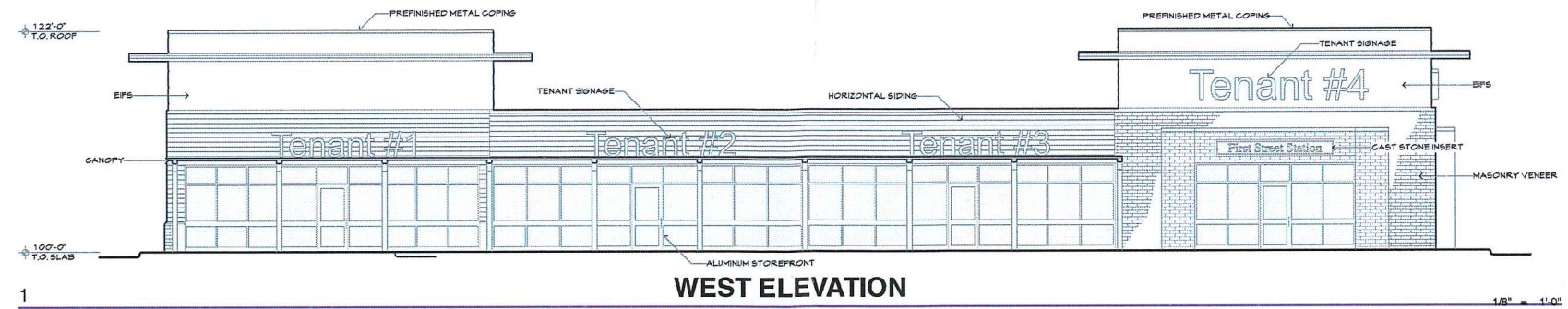
First Street Station

PERSECTIVE

First Street, Wilmar, Minnesota, 56201
7.17.12

NEGEN
ASSOCIATES
Architectural • Interior • Landscape Architecture

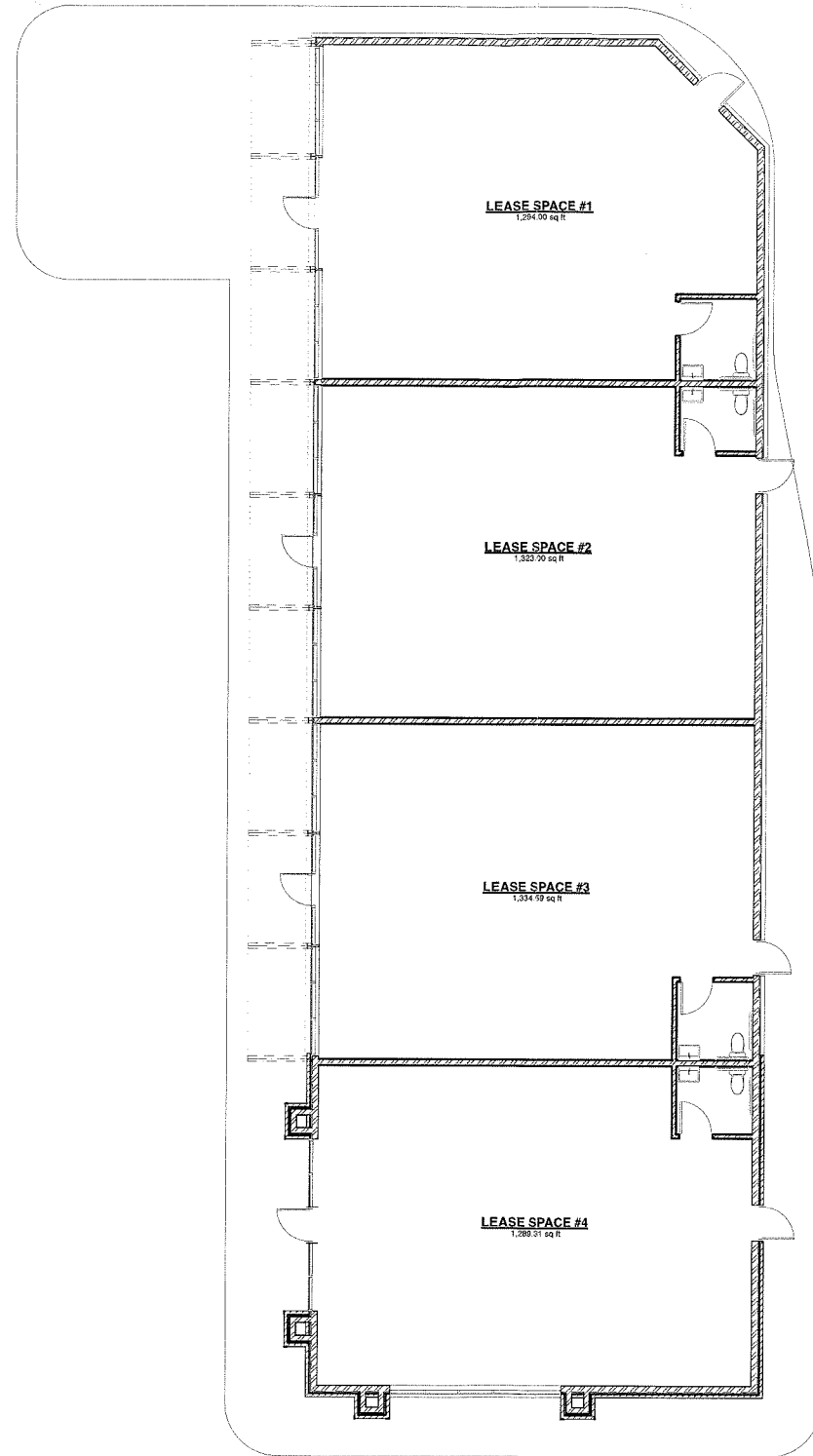
1000 North 1st Street
St. Cloud, MN 56303
763.325.1111
www.negenassociates.com



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St. Cloud, MN 56301
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First Street Station

FLOOR PLAN

First Street, Willmar, Minnesota, 56201
7/17/18

NEGEN
ASSOCIATES
Architectural | Interior Design | Planning

PHOTO: JACOBSON PHOTOGRAPHY
ARCHITECT: JACOBSON PHOTOGRAPHY
TELEPHONE: 218.261.1111
WWW.NEGENASSOCIATES.COM

SITE PLAN

© 2004-2016 Negen and Associates, St. Cloud, MN 56303

BOARD OF ZONING APPEALS - AUGUST 7, 2018

STAFF COMMENTS

1. FIRST STREET STATION PARKING SETBACK VARIANCE - FILE NO. 18-03:

- The applicant is Marcus Construction, Willmar, MN.
- The applicant requests to allow a front yard right-of-way parking setback of 3' and a side yard parking setback of 8' on property described as follows: Part of the Southwest ¼ of Southwest ¼, Section 14, Township 119, Range 35 (1221 1st St S)
- The property is zoned GB (General Business).
- The applicant is the general contractor for HIS Property Group, LLC., Willmar, MN (property owner).
- The variance is being requested along 1st St S and the northern lot line to increase onsite parking and provide safe customer traffic flow. The Zoning Ordinance requires 15' setbacks from right-of-way and 10' setbacks from interior lot lines.
- Setbacks along the east lot line and along Willmar Ave do not comply with the Zoning Ordinance standards; however, they are legally non-conforming and do not require variance approval.
- A condition of the Planning Commission's approval of the initial Plan Review was to meet setbacks for parking or obtain a variance.
- No tenants are secured, so traffic volume/parking requirements are not known. Office and retail is the anticipated use at this time; there will be one unit with a drive through window.
- City acquisition of right-of-way to widen 1st St and retrofitting small commercial lots have been the basis for granting variance approval for other similar sites along the 1st St Corridor (Burger King, Jimmy Johns, Lulu Beans, etc.)

Fire Marshal Comments: There is not enough travel space on both the north and east sides of the building. Fire Code requires at least 20 feet of clear travel space. I prefer 24 feet.

Engineering Comments: I have reviewed the site plan for First Street Station, prepared by Negen and Associates, and have the following comments.

- Planning Commission to review the non-conforming setbacks and number of parking spaces.
- Post development runoff should be equal to or less than pre development runoff. Drainage calculations shall be submitted.
- Prior to any soil disturbing operations, perimeter silt fence shall be installed to prevent any sediment from leaving the site.
- This site has 6" sanitary sewer and 1.5" water service. The redevelopment of the site will require tapping fees and will be calculated based on new fixture units.
- All downstream storm sewer inlets or aprons shall have inlet protection in place prior to any soil disturbing operations.
- Because of existing traffic conflicts for east bound Willmar Avenue traffic entering the site, it is recommended that the proposed new entrance on Willmar Avenue be "right in and right out" only for Willmar Avenue west bound traffic.
- If the existing First Street entrance is being changed, it should be noted that the existing curb on First Street is doweled to the underlying 8" concrete base.

- The proposed parking lot perimeter to be curbed and storm sewer installed to control storm water

RECOMMENDATION: Review variance standards in Section 9.D.3.a.1-4 to see if there are practicable difficulties, reasonableness, uniqueness, and essential character.